

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

IN RE:
GARY LYNN COOKE

BCN#: 23-60265
Chapter: 13

Debtor

The Bank of New York Mellon, F/K/A The
Bank of New York as trustee for registered
Holders of CWABS, Inc., Asset-Backed
Certificates, Series 2005-9
or present noteholder,

MOTION FOR ORDER GRANTING RELIEF
FROM AUTOMATIC STAY AND
CO-DEBTOR STAY

Movant/Secured Creditor,
v.
GARY LYNN COOKE
Debtor
FRANCES C. COOKE
Co-Debtor
and
ANGELA M. SCOLFORO
Trustee
Respondents

The Bank of New York Mellon, F/K/A The Bank of New York as trustee for registered
Holders of CWABS, Inc., Asset-Backed Certificates, Series 2005-9, and/or present noteholder,
(Movant herein), alleges as follows:

1. The Bankruptcy Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §157 and §1334; 11 U.S.C. §362.
2. The above named Debtor filed a Chapter 13 Petition in Bankruptcy with this Court on March 7, 2023.

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3. Angela M. Scolforo, Trustee, has been appointed by this Court as the Chapter 13 Trustee in this instant Bankruptcy proceeding.

4. Movant is the current payee of a promissory note secured by a deed of trust upon a parcel of real property with the address of 21 Zion Ct, Gordonsville, VA 22942 and more particularly described in the Deed of Trust dated August 25, 2005 and recorded as Deed Book 0947, Page 470, among the land records of the said city/county, as:

All that certain lot or parcel of land with improvements thereon and appurtenances thereto, situated in Louisa County, Virginia, on the southeast side of Zion Lane and the southwest side of State Route 615, containing 1.500 acres, more or less, shown as Lot 7, of Zion Acres Subdivision, on a plat by James H. Bell, Jr., P.C., dated May 18, 1990, and recorded in the Clerk's Office of the Circuit Court of Louisa County, Virginia, in Deed Book 387, page 836. BEING the same property conveyed to Kersti Morton, by Deed from Bryan K. Palmer, dated September 6, 2000, recorded in the aforesaid Clerk's Office in Deed Book 652, page 202.

And further being the same real estate conveyed to Gary L. Cooke and Frances C. Cooke, as joint tenants with the right of survivorship, by Deed from Kersti Morton, dated May 19, 2004, recorded May 26, 2004, in the Clerk's Office, Circuit Court, Louisa County, Virginia, in Deed Book 852, page 965. The improvements thereon being known as 21 Zion Ct., Gordonsville, VA

5. Movant is informed and believes and, based upon such information and belief, alleges that title to the subject Property is currently vested in the name of the Debtor and Co-Debtor.

6. The Debtor is in default with regard to payments which have become due under the terms of the aforementioned note and deed of trust since the filing of the Chapter 13 Petition. As of June 20, 2023, the Debtor is due for:

- o 3 post-petition monthly payments from April 2023 through June 2023 of \$1,070.15 each which were to be paid directly to Movant;

7. As of June 20, 2023, the unpaid principal balance on the said note is \$211,096.05.

8. Movant has elected to initiate foreclosure proceedings on the Property with respect to the subject Trust Deed but is prevented by the Automatic Stay from going forward with these proceedings.

9. Continuation of the automatic stays of 11 U.S.C. § 362(a) and 11 U.S.C. § 1301 will work real and irreparable harm and deprive the Movant of the adequate protection to which it is entitled under 11 U.S.C. § 362 and 11 U.S.C. § 1301 due to the aforementioned facts.

WHEREFORE, Movant prays for an order granting relief from Automatic Stay and Codebtor Stay, that the 14 day waiting period imposed by F.R.B.P. 4001(a)(3) be waived in this instant bankruptcy proceeding only, and for such other relief as the court may deem meet and proper.

Dated: 6/28/2023

LOGS Legal Group LLP
Attorneys for Movant

By: /s/ Bryce Robertson
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of June, 2023 the following person(s) were served a copy of the foregoing in the manner described below:

Via CM/ECF Electronic Notice:

John Paul Goetz, John Goetz Law, PLC
86 W. Shirley Avenue
Warrenton, VA 20186

Debtor's Attorney

Angela M. Scolforo
123 East Main St
Suite 310
Charlottesville, VA 22902

Chapter 13 Trustee

Via First Class Mail, Postage Prepaid:

Gary Lynn Cooke
21 Zion Ct
Gordonsville, VA 22942

Debtor(s)

Frances C. Cooke
21 Zion Ct
Gordonsville, VA 22942

Co-Debtor(s)

/s/ Bryce Robertson

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